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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

RICHARD MOSS CRAIG,

Defendant and Appellant.

E071467

(Super.Ct.No. CR60127)

OPINION

APPEAL from the Superior Court of Riverside County. John D. Molloy, Judge.

Affirmed.

Jeanine G. Strong, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Richard Moss Craig appeals from an order denying his petition for resentencing under Penal Code<sup>1</sup> section 1170.18. We find no error and affirm the judgment.

### PROCEDURAL BACKGROUND

Defendant was charged by felony complaint with the unlawful driving or taking of a vehicle (Veh. Code, § 10851), with an enhancement for a prior vehicle theft conviction (Pen. Code, § 666.5, subd. (a)), and receiving stolen property (a vehicle) (Pen. Code, § 496, subd. (a)). The complaint alleged that he had served two prior prison terms. (§Pen. Code, 667.5, subd. (b).)

On December 14, 1994, defendant entered a plea agreement and agreed to plead guilty to the receiving stolen property charge, in exchange for the dismissal of the remaining count and allegations and a two-year state prison term. The court sentenced him in accordance with the terms of the agreement.

On November 4, 2014, California voters approved Proposition 47 (effective November 5, 2014). (§1170.18.) Proposition 47 “reclassified certain drug- and theft-related offenses that were felonies or ‘wobblers’ as misdemeanors, and provided a resentencing process for individuals who would have been entitled to lesser punishment if their offenses had been committed after its enactment.” (*People v. Rouse* (2016) 245 Cal.App.4th 292, 294.) As relevant here, section 1170.18, subdivision (f), provides, “A person who has completed his or her sentence for a conviction, whether by trial or plea,

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<sup>1</sup> All further statutory references will be to the Penal Code, unless otherwise note.

of a felony or felonies who would have been guilty of a misdemeanor under this act had this act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the felony conviction or convictions designated as misdemeanors.”

On February 13, 2018, defendant filed a petition for resentencing and reduction of his receiving stolen property conviction to a misdemeanor, pursuant to section 1170.18. The petition simply alleged that defendant believed the value of the stolen property did not exceed \$950. The People filed a response opposing the petition since defendant failed to meet his burden of proof.

On May 22, 2018, the court appointed a public defender and continued the matter so the public defender could gather facts.

On August 2, 2018, the trial court granted the defense motion requesting that the pertinent information contained in the court files be provided to both parties.

On August 16, 2018, the trial court held a hearing on defendant’s Proposition 47 petition. Defense counsel offered no evidence and submitted the matter. The court denied the petition for relief, since the defense failed to meet its burden of proof.

On October 15, 2018, defendant filed a notice of appeal, in propria persona.

### ANALYSIS

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of

the case and the following potential arguable issue: whether the court properly denied defendant's petition to reduce his conviction to a misdemeanor.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error. We have now concluded our independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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McKINSTER  
Acting P. J.

We concur:

MILLER  
J.

RAPHAEL  
J.